

REFERENCE TITLE: school districts; receivership

State of Arizona
House of Representatives
Forty-eighth Legislature
First Regular Session
2007

HB 2378

Introduced by
Representatives Anderson: Tobin

AN ACT

AMENDING SECTION 15-103, ARIZONA REVISED STATUTES; REPEALING LAWS 2005,
CHAPTER 274, SECTIONS 2 AND 3; RELATING TO THE STATE BOARD OF EDUCATION.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Section 15-103, Arizona Revised Statutes, is amended to
3 read:
4 15-103. School districts; financial and other mismanagement;
5 intervention; definitions
6 A. The state board of education shall review allegations of school
7 district insolvency and gross mismanagement. The state board shall give the
8 school district an opportunity to respond to these allegations at a public
9 meeting. If the state board determines that the school district is
10 insolvent, ~~or~~ has grossly mismanaged its finances **OR HAS GROSSLY MISMANAGED**
11 **ITS OTHER DUTIES**, the state board shall appoint a receiver for that school
12 district.
13 B. The state board shall find a school district insolvent if it finds
14 one or more of the following:
15 1. The school district is unable to pay debts as they fall due or in
16 the usual course of business.
17 2. The salaries of any teachers or other employees have remained
18 unpaid for forty-five days.
19 3. The tuition due another school district or other state institution
20 remains unpaid on or after January 1 of the year following the school year it
21 was due and there is no dispute regarding the validity or amount of the
22 claim.
23 4. The school district has defaulted in payment of its bonds or
24 interest on bonds or in payment of rentals due any state or federal authority
25 or private business for a period of sixty calendar days and no action has
26 been initiated within that period of time to make payment.
27 5. The school district has contracted for any loan not authorized by
28 law.
29 6. The school district has accumulated and has operated with a deficit
30 equal to five per cent or more of the school district's revenue control limit
31 for any fiscal year within the past two fiscal years.
32 7. The school district's warrants have not been honored for payment by
33 the school district's servicing bank or by the county treasurer and the
34 warrants have remained unpaid for a period of more than sixty calendar days.
35 C. No school district shall be deemed to be insolvent pursuant to
36 subsection B of this section if the circumstances are the result of the
37 failure of the state to make any payments of monies due the school district
38 at the time payment is due.
39 D. The state board of education shall have jurisdiction over all
40 petitions requesting that a school district be placed in receivership and a
41 receiver be appointed because of the school district's alleged insolvency or
42 gross mismanagement. The state board shall have the burden of demonstrating
43 by a preponderance of the evidence that the school district is insolvent or
44 is engaged in gross mismanagement.

1 E. If the state board of education finds that the school district is
2 insolvent or has engaged in gross mismanagement, the state board shall place
3 the school district in receivership and appoint a receiver recommended by the
4 state board. The state board shall develop and adopt a list of qualified
5 receivers to be appointed by the board.

6 F. On appointment, the receiver shall begin a full review and
7 investigation of the school district's financial affairs and submit to the
8 state board of education a detailed report listing the findings of that
9 investigation that shall include a financial improvement plan and budget that
10 details how the school district will eliminate any continued gross financial
11 mismanagement and achieve financial solvency. The plan shall include a
12 proposed timeline for achieving financial solvency. The receiver shall
13 submit the report within one hundred twenty days after the receiver's
14 appointment. The financial improvement plan approved by the state board of
15 education may authorize the receiver to do any of the following:

16 1. Override any decisions of the school district's governing board or
17 the school district superintendent, or both, concerning the management and
18 operation of the school district, and initiate and make decisions concerning
19 the management and operation of the school district.

20 2. Attend any and all meetings of the school district's governing
21 board and administrative staff.

22 3. Supervise the day-to-day activities of the school district's staff,
23 including reassigning the duties and responsibilities of personnel in a
24 manner that, in the determination of the receiver, best suits the needs of
25 the school district.

26 4. Place on extended leave, suspend or terminate for cause the school
27 district's superintendent or chief financial officer, or both. A person
28 terminated pursuant to this paragraph may appeal the receiver's decision to
29 the state board of education if an appeal is filed with the state board
30 within thirty days of receiving notice of the termination.

31 5. Authorize pupils to transfer from schools operated by the school
32 district to schools operated by another school district that is not currently
33 in receivership.

34 6. Appoint a chief educational officer who shall possess the powers
35 and duties of a school district superintendent. A chief educational officer
36 who is appointed pursuant to this paragraph shall hold a valid administrative
37 certificate.

38 7. Appoint a chief fiscal officer who shall possess the powers and
39 duties of the school district's chief school business official and any other
40 duties regarding budgeting, accounting and other financial matters that are
41 assigned to the school district by law.

42 8. Appoint a competent independent public accountant to audit the
43 accounts of the school district.

1 9. Reorganize the school district's financial accounts, management and
2 budgetary systems to improve financial responsibility and reduce financial
3 inefficiency within the district.

4 10. Establish school district fiscal guidelines and a system of
5 internal controls, including internal administrative controls and internal
6 accounting controls, with provisions for internal audits.

7 11. Cancel or renegotiate any contract, other than contracts of
8 certificated teachers who have been employed by the school district in the
9 capacity of a certificated teacher for more than one year immediately before
10 the date the receiver was appointed, to which the governing board or the
11 school district is a party if the cancellation or renegotiation of the
12 contract will produce needed economies in the operation of the district's
13 schools. The receiver may refuse to reemploy any certificated teacher who
14 has not been employed by the school district for more than the major portion
15 of three consecutive school years as provided in section 15-536.

16 G. The receiver's power, authority and duties shall be effective on
17 the date of the receiver's appointment by the state board of education. The
18 receiver shall perform the receiver's duties according to the instructions of
19 the state board of education order and according to law. The receiver shall
20 promptly report any violations of law, including a violation of the uniform
21 system of financial records, to the state board of education.

22 H. On review and approval of the state board of education, the
23 receiver shall take all necessary steps to implement the financial
24 improvement plan and budget utilizing those powers identified in the plan as
25 prescribed in subsection F of this section.

26 I. The salary and benefits of the receiver and any officers or
27 employees appointed by the receiver shall be paid by the school
28 district. The state board of education shall determine the salary for the
29 receiver and any officers or employees appointed by the receiver based on
30 amounts recommended by the state board.

31 J. The state board of education shall remove the school district from
32 receivership and dismiss the receiver and dismiss any officer or employee
33 appointed by the receiver thirty days after all of the following have
34 occurred:

35 1. The auditor general certifies that the school district has been
36 financially solvent for one fiscal year.

37 2. The auditor general certifies that the school district's financial
38 records are in compliance with the uniform system of financial records and
39 generally accepted accounting principles.

40 3. The receiver certifies that the school district is no longer
41 engaged in gross mismanagement.

42 4. The state board of education has determined that the school
43 district is able to pay its debts as those debts become due.

44 K. The receiver shall submit a quarterly progress report to the state
45 board of education. The first progress report is due ~~on the three month~~

1 ~~anniversary of~~ NINETY DAYS AFTER the receiver's appointment by the state
2 board.

3 L. The state board of education shall formally review the receiver's
4 progress every six months. If, based on the quarterly progress reports, the
5 state board determines that the receiver's progress is insufficient, the
6 state board may remove the current receiver and appoint another receiver for
7 the school district.

8 M. The state board of education may dismiss the receiver for cause or
9 on a majority vote of no confidence in the receiver of the state board.

10 N. The school district shall indemnify the receiver and any officer or
11 employee appointed by the receiver who is made or threatened to be made a
12 party to any litigation by reason of their status under this section if the
13 receiver, officer or employee acted in good faith and in a manner that the
14 receiver, officer or employee reasonably believed to be consistent with the
15 best interest of the school district and if the receiver, officer or employee
16 had no reasonable cause to believe that the conduct was unlawful.

17 O. During the period of time that the school district is in
18 receivership, no member, officer, employee or agent of the school district
19 may enter into any contract or incur any liability on behalf of the school
20 district for any purpose if the amount of the contract or liability exceeds
21 the receiver's authorized financial plan and budget for the school
22 district. The receiver may discipline, including, if warranted, imposing a
23 suspension from duty without pay, removal from office or termination of, any
24 school district employee or officer who violates this subsection.

25 P. This section does not create a private cause of action against the
26 school district or its officers, directors, board members or employees.

27 Q. The assumption of control of the school district by the receiver
28 shall in no way interfere with the election or reelection of school district
29 governing board members.

30 R. This section shall not interfere with a school district's ability
31 to declare bankruptcy under federal law.

32 S. The state board of education shall continue to monitor and offer
33 technical assistance to a school district for two years after its removal
34 from receivership.

35 T. For the purposes of this section:

36 ~~1. "Delinquent debt" means debts or liability unpaid by the school~~
37 ~~district for a period of more than sixty days from the time of notice.~~

38 ~~2.~~ 1. "Gross mismanagement" means that the school district's officers
39 or employees committed or engaged in gross incompetence or systemic and
40 egregious mismanagement of the school district's finances, ~~or~~ financial
41 records OR OTHER DUTIES.

42 ~~3.~~ 2. "Notice" means written notice personally served or delivered by
43 certified mail, return receipt requested.

44 ~~4.~~ 3. "Receiver" means an individual appointed by the state board of
45 education from the persons recommended by the state board for the purpose of

1 managing a school district placed in receivership by the state board of
2 education.

3 ~~5.~~ 4. "Receivership" means the state or condition of being under the
4 control of the receiver appointed by the state board of education.

5 ~~6.~~ 5. "Superintendent" means the chief executive officer of the
6 school district.

7 Sec. 2. Repeal

8 Laws 2005, chapter 274, sections 2 and 3 are repealed.